

CITY OF SAN DIEGO 2010 REDISTRICTING COMMISSION

SUMMARY

In June 1992 the citizens of San Diego voted to amend the City Charter to require a Redistricting Commission. Following each Federal census, the Commission adjusts City Council district boundaries to ensure appropriate population balances. In 2010, this Commission also was tasked to establish a ninth Council district.

Both the 2000 and 2010 Redistricting Commissions published final reports recommending changes for subsequent Commissions. Each Commission requested the City set up and staff an office earlier in the Redistricting process. The 2011/2012 San Diego County Grand Jury recommends the Mayor establish a process that will ensure staffing and office needs are addressed in a timely manner prior to the 2020 redistricting.

The current City Charter lists three options for appointing Commissioners. These are stated in order of priority:

1. Presiding Judge of the Municipal Court.
2. Sitting Municipal Court Judge elected by the other judges.

[Note: Neither of these two options is applicable today. Municipal and justice courts were consolidated into the County Superior Court in 1998. Further, the Superior Court determined in 2000 it would be unethical for sitting judges to participate.]

3. Three retired Superior Court Judges drawn at random by the City Manager
[Note: This is also out of date because the City Manager position was eliminated in 2008.]

The City Charter needs to be amended to bring it in line with today's political reality.

INTRODUCTION

The Grand Jury evaluated the selection process for the 2010 City of San Diego Redistricting Commission and how it might be improved.

PROCEDURE

The Grand Jury reviewed the San Diego City Charter, San Diego Municipal Code, and reports published by the 2000 and 2010 Redistricting Commissions. Interviews were conducted with representatives of these groups:

- Office of the San Diego City Clerk,
- Office of the San Diego City Attorney,
- The three-judge appointing panel,

- The 2010 Redistricting Commission, and
- The commissioner nominee pool.

DISCUSSION

In June 1992 voters amended the San Diego City Charter to require a Redistricting Commission after every federal census.¹ The Commission maps new City Council districts that provide fair and effective representation for all citizens. This Charter amendment replaced language that specified how City Council members should set their own districts.

The Charter amendment specifies qualifications for serving as a Commissioner, how Commissioners are nominated and selected and standards the Commission should follow in adopting redistricting plans, and requires the City Council to appropriate funds adequate to carry out the Redistricting Commission's duties.

The Charter also contains provisions relating to how districts are to be established, public meetings, and challenges to the new maps.

The redistricting commission selection process, as established in the City Charter and related Municipal Codes, contains several elements that act to limit the number of nominees. Everyone the Grand Jury interviewed was disappointed that only 50 people were nominated; the City Clerk's office was hoping to recruit 100.

First, the City Charter limits the nomination period for commissioners to 30 days, beginning July 1 in each federal census year. Interviewees frequently told the Grand Jury the application window for nominations was too narrow and was limiting because it occurred during a summer month when many people are on vacation.

Second, under the San Diego Municipal Code, the City Clerk may only begin to advertise the nomination period 30 days before July 1.² For the 2010 Redistricting Commission, the City Clerk began an extensive outreach campaign in January, but was unable to advertise officially until the beginning of June and could not accept nominations until July 1.

The City Charter specifies three appointment processes for the Redistricting Commission in order of priority:

- Seven members are appointed by the Presiding Judge of the Municipal Court, or
- The Municipal Court Judge, selected by vote of all active members of the Municipal Court, makes the appointments, or
- Three retired Superior Court Judges, drawn at random by the City Manager, choose the Commissioners.

¹ San Diego City Charter, article II, sections 4 and 5.

² San Diego Municipal Code, chapter 2, article 7, division 14, section 27.1405.

The municipal and justice courts were consolidated into the County Superior Court in 1998. In addition, in 2000 the Court determined it would be an ethical breach for sitting judges to make the appointments. The position of City Manager was eliminated in 2008. In 2010, the Presiding Judge of the Superior Court nominated a pool of retired Superior Court Judges. Three judges were then drawn at random by the City Chief Operating Officer to serve as the appointing authority. The Charter and Municipal Code should be brought up to date.

In 2010, the three retired judge option was used. Unfortunately, one member of this three-judge panel was unavailable at the last minute. The City Attorney's office determined that a quorum of two of the three-member panel was sufficient to proceed with selection of Commissioners. The Grand Jury believes a retired Superior Court Judge should be named as an alternate to ensure three judges are present at all stages of the selection process.

The three-judge panel must appoint the seven Redistricting Commissioners no later than November 1 in the census year. Within twenty days the Commission must hold its first meeting at a time and place designated by the City Clerk. The Commission then elects a chair and a vice chair, hires a chief of staff, and contracts for staff, technical consultants and services, using existing City staff to the extent possible. Both the 2000 and 2010 Commissions requested the chief of staff selection process be accelerated. They also recommended more timely availability of support staff, office supplies, and equipment.³

The Grand Jury commends the San Diego City Clerk and the 2010 Redistricting Commission for completing its work ahead of schedule. The resultant plan was accepted without challenge.

FACTS AND FINDINGS

Fact: The City Charter and Municipal Code specify the 30-day nomination period for Redistricting Commissioners begins July 1 in every census year.

Fact: The City Clerk may only advertise the nomination period beginning 30 days before July 1.

Fact: The City Clerk received only 52 applications, of which 50 were accepted.

Finding 01: The number of nominees for Redistricting Commissioner is limited by the short June-July announcement and nominating window

Finding 02: Many residents are on vacation in June or July.

Fact: The current Charter establishes an order of precedence for the Appointing Authority for Redistricting Commissioners: (1) Presiding Judge of the Municipal Court,

³ www.sandiego.gov/redistricting

then (2) a Municipal Judge selected by a vote of the Judges of the Municipal Court, then (3) three retired Superior Court Judges drawn at random by the City Manager.

Fact: In 2000, the Court determined it would be unethical for sitting judges to serve.

Fact: The Municipal Court was merged into the Superior Court in 1998.

Fact: The position of City Manager was eliminated in 2008.

Finding 03: The Charter is not current as to the structure and ethical constraints of the San Diego Court system and City Government.

Fact: The 2010 Appointing Authority approved Redistricting Commissioners by a two vote quorum.

Fact: The Charter does not provide for an alternate in the event a member of the appointing authority is unavailable.

Finding 04: The 2010 Redistricting Commission process could have been subject to challenge because only two members of the three-judge panel were available.

Fact: The 2000 Redistricting Commission made recommendations related to the timely availability of staff and office space and supplies.

Fact: The recommendations were part of the 2000 Redistricting Commission final report and were presented to the Mayor and City Council by the City Clerk by memorandum January 22, 2010.

Fact: The 2010 Redistricting Commission also made recommendations related to the timely availability of staff and office space and supplies.

Finding 05: The City took no action on the recommendations made by the 2000 Redistricting Commission with regard to office needs and support staff.

RECOMMENDATIONS

The 2011/2012 San Diego County Grand Jury recommends the San Diego City Council:

12-50: Sponsor an amendment to the City of San Diego Charter Article II, Section 5 and Section 5.1 before the 2020 census to expand the nomination period for Redistricting Commissioners to at least 90 days.

12-51: Sponsor an amendment to the City of San Diego Charter Article II, Section 5 and Section 5.1 before the 2020 Census to update the Court's current structure and require the appointing authority be made up of three retired Superior Court Judges drawn at random by the City Chief Operating Officer.

- 12-52:** **Modify the San Diego Municipal Code chapter 2, article 7, division 14, Section 27.1401 et seq. to be consistent with the Charter and current Court and City government structure.**
- 12-53:** **Modify the San Diego Municipal Code chapter 2, article 7, division 14, Section 27.1405 to require an alternate be named to the appointing authority if one of the three judges is unable to participate in the Redistricting Commissioner selection process.**

The 2011/2012 San Diego County Grand Jury recommends the Mayor of the City of San Diego and the City Clerk work together to:

- 12-54:** **Establish a process in anticipation of the 2020 Redistricting Commission that would begin recruitment of a candidate pool for the Redistricting Commission Chief of Staff 90 days prior to selection of the appointing authority.**
- 12-55:** **Establish a process in anticipation of the 2020 Redistricting Commission that would ensure an appropriately equipped office suite and staff are available at the time of the 2020 Redistricting Commissioner selection.**
- 12-56:** **Establish a process in anticipation of the 2020 Redistricting Commission that would ensure a candidate pool of outside consultants is available for selection by the Redistricting Commission.**
- 12-57:** **Assign the Redistricting Commission Chief of Staff as liaison between the City staff and services and the Redistricting Commission.**

COMMENDATION

The Grand Jury commends the Office of the San Diego City Clerk, the Office of the San Diego City Attorney, and the 2010 Redistricting Commissioners, their Chief of Staff and other support staff for a job well done. They worked together and completed the important task of creating nine City Council Districts from the previous eight in a timely and professional manner.

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

Responding Agency	Recommendations	Date
San Diego City Council	12-50 through 12-53	8/29/12
San Diego City Mayor	12-54 through 12-57	8/29/12
San Diego City Clerk	12-54 through 12-57	8/29/12

Filed: May 31, 2012